



January 17, 2014

HOUSE BILL No. 1096

DIGEST OF HB 1096 (Updated January 15, 2014 3:57 pm - DI 84)

Citations Affected: IC 3-5; IC 3-11.

Synopsis: Voting systems. Amends election statutes to recognize changes in technology of voting systems.

Effective: Upon passage.

Richardson

January 9, 2014, read first time and referred to Committee on Elections and Apportionment.
January 16, 2014, reported — Do Pass.

HB 1096—LS 6957/DI 75



January 17, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1096

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-5-2-31, AS AMENDED BY P.L.221-2005,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 31. "Marking device" means:

- 4 (1) a pencil for marking a paper ballot or ballot card; or
5 (2) an approved touch-sensitive device that automatically:
6 (A) registers a vote on an electronic voting system; **or**
7 (B) **produces a marked optical scan ballot.**

8 SECTION 2. IC 3-5-2-33.9 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 33.9. (a) "Optical
10 scan ballot" means a card or another paper on which votes are:

- 11 (1) recorded by marking the card ~~or paper in ink or pencil; with~~
12 **a marking device; and**
13 (2) tabulated by an optical system that reads the marks on the card
14 or paper.

15 (b) "Optical scan voting system" means a voting system using
16 optical scan ballots.

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SECTION 3. IC 3-11-10-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. (a) This section does not apply to a ballot mailed to a voter under this chapter.

(b) Subject to IC 3-5-4-9, before a ballot is voted under section 25 ~~or 26~~ of this chapter before an absentee voter board, it must bear the circuit court clerk's official seal and signature or facsimile signature and be initialed by ~~(1)~~ the absentee voter board visiting the voter under section 25(b) of this chapter (except in a county subject to subsection ~~(c)~~; ~~or (d)~~).

(c) Subject to IC 3-5-4-9, before a ballot is:

(1) voted under section 26 of this chapter; or

(2) placed in a secrecy envelope if it has been marked using a marking device for an optical scan ballot;

the ballot must bear the circuit court clerk's official seal and signature or facsimile signature and be initialed by ~~(2)~~ the county election board or the board's designated representatives under IC 3-11-4-19. ~~if the ballot is cast at the office of the circuit court clerk under section 26 of this chapter.~~

~~(c)~~ (d) A county election board may adopt a resolution providing that the absentee ballots to be voted before an absentee voter board visiting the voter under section 25(b) of this chapter must be initialed by the county election board or the board's representatives under IC 3-11-4-19 and not by the absentee voter board visiting the voter. A resolution adopted under this subsection remains in effect until rescinded by the county election board. The election board may not rescind the resolution during the final sixty (60) days before an election.

~~(d)~~ (e) The initials must be in ink on the back of the ballot, in the person's ordinary handwriting or printing, and without a distinguishing mark of any kind. No other initialing of the absentee ballot is necessary.

SECTION 4. IC 3-11-13-18, AS AMENDED BY P.L.221-2005, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) **Except as provided in subsection (d),** the county election board in a county using a ballot card voting system shall provide ballot cards to the precinct election board that permit voters to cast write-in votes for each officer to be voted for at that election.

(b) The ballot cards provided under subsection (a) must be:

(1) designed to be folded; or

(2) accompanied by a secrecy envelope;

to ensure the secrecy of each of the votes cast by a voter.



(c) This subsection is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what constitutes a vote on an optical scan voting system. Except as provided in subsection (d), a write-in vote shall be cast by printing the name of the candidate and the title of the office in the space provided for write-in votes on a ballot card or secrecy envelope.

(d) Space for write-in voting for an office is not required if:

- (1) there are no declared write-in candidates for that office; **or**
- (2) the marking device allows for entry of a write-in candidate that can be read by a tabulator.**

However, procedures must be implemented to permit write-in voting for candidates for federal offices.

SECTION 5. IC 3-11-13-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) This section does not apply to a ballot card voted by absentee ballot.

(b) The two (2) poll clerks of each precinct shall place their initials in ink on the back of each ballot card:

- (1) at the time the card is issued to a voter; **or**
- (2) in the case of a ballot marked by a marking device for an optical scan ballot, before the ballot is placed into the tabulating device.**

The initials must be in the poll clerks' ordinary handwriting or printing and without a distinguishing mark of any kind.

(c) Except as provided in IC 3-12-1-12, a ballot card is not valid unless it is initialed by both poll clerks.

SECTION 6. IC 3-11-13-28.5, AS AMENDED BY P.L.164-2006, SECTION 115, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28.5. (a) Unless challenged, a voter may proceed to vote.

(b) **This subsection does not apply in a precinct where a marking device for an optical scan ballot is being used.** As each successive voter calls for a ballot, the poll clerks shall deliver to the voter the first initialed ballot of each type. The inspector shall then deliver to the poll clerks another ballot of each type, which the clerks shall initial as before.

(c) This subsection applies to an optical scan ballot card ballot tabulated at a central location. As provided by 42 U.S.C. 15481, when a voter receives an optical scan ballot card ballot, the board must also provide the voter with:

- (1) information concerning the effect of casting multiple votes for an office; and
- (2) instructions on how to correct the ballot before the ballot is



1 cast and counted, including the issuance of replacement ballots.
2 **SECTION 7. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1096, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1096 as introduced.)

Committee Vote: Yeas 12, Nays 0

Representative Smith M

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